

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY

(CHIEF) COL. MICHAEL S.  
OWL FEATHER-GORBEY,

Plaintiff,  
v.

CIVIL ACTION NO. 5:22-cv-00354

WARDEN, *et al.*,

Defendants.

**ORDER**

Pending are Plaintiff (Chief) Col. Michael S. Owl Feather-Gorbey's Complaint initiated pursuant to *Bivens v. Six Unknown Federal Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971)<sup>1</sup> [Doc. 1], filed August 26, 2022; Application to Proceed In Forma Pauperis [Doc. 4], filed September 12, 2022; and Proposed Amended Complaint [Doc. 6], filed September 15, 2022. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on June 23, 2023 [Doc. 7]. Magistrate Judge Aboulhosn recommended that the Court deny Plaintiff's Application to Proceed *In Forma Pauperis*, dismiss the Complaint and Amended Complaint without prejudice pursuant to 28 U.S.C. § 1915(g), and remove the matter from the Court's docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation

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<sup>1</sup> On August 26, 2022, Magistrate Judge Dwane L. Tinsley construed Ground Four of Mr. Owl Feather-Gorbey's Amended Section 2241 Petition as a new civil action under *Bivens*, thus initiating the instant action. [See Doc. 14, Case No. 5:22-cv-00007].

to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also* *United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). The PF&R was initially returned as undeliverable, readdressed, and resent to the Plaintiff at the facility listed on the Bureau of Prison’s Inmate Locator. Accordingly, objections in this case were due on August 3, 2023. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [Doc. 7], **DENIES** Plaintiff’s Application to Proceed *In Forma Pauperis* [Doc. 4], **DISMISSES WITHOUT PREJUDICE** the Complaint [Doc. 1] and Amended Complaint [Doc. 6], and **ORDERS** the case **DISMISSED WITHOUT PREJUDICE** and **STRICKEN** from the docket.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: August 21, 2023



  
Frank W. Volk  
United States District Judge